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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/419,171 | 10/15/1999 | ANTERO LUNDELL | 324-008940-U | 9865 |

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CLARENCE A GREEN
PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06430

EXAMINER

GESESSE, TILAHUN

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 12/03/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/419,171

Applicant(s)

LUNDELL ET AL.

Examiner

Tilahun B Gesesse

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fried (us 5,930,241) in view of Crichton et al (us 5,722,072).

As to claims 1,13 Fried discloses a method for performing cell re-selection in a cellular network, (col.2 lines 38-46). Fried discloses a subscriber terminal measuring received power of neighbor cells in accordance with system information received from a current cell (32) (col.6 lines 50-65). Fried discloses selecting one of the neighboring cells as a new cell (36) (col. 9 lines 15-27). Fried discloses receiving the for system information of the new cell by employing the length information in the system information part sent by the new cell (col. 5 lines 35- 53 and col.6 lines 11- 17). Fried discloses all the subject matter claimed except for calculating the time received signal. Crichton et al from the same or related field of endeavor suggests that to solve the problem of transfer to new cell based on the mobile based on time measurement to reselect the neighboring (col.3 lines 39-50). Since Fried discloses a system information message that includes network control information element can be quite lengthy, then it would have been obvious to person of ordinary skill in the art at the time of invention was made to recognize calculating the time spend to receive information from the network , as disclosed by Crichton et la., as present in fried in order to avoid the waste of resource during the process of reselection new cell. As to claims 2-3,11 Fried disclose uses information with multiframe length (col.5 lines 49-52 and fig.2). As to claims 4-9,14-15, Fried does not specifically disclose a repeated period system information. However, Crichton et la disclose repeated period of information processing to determine the best cell for communication, (fig.6). It would have been obvious to measure the time elapses to receive system information and select the best cell to communicate based on repeated evaluation of neighboring cells, as disclosed by Crichton et al. As to claim 10, Fried discloses the cellular network using GPRS and placing the system information on a PBCCH (col. 4 lines 52-63). As to claim 12, Fried does not disclose the TDMA system. However, Fried

discloses CDMA system (col.2 lines 20-25. It would have been obvious to ordinary skill in the art at the time of invention was made to use TDMA system based on the time division Multiplex Access.

Response to Arguments

4. Applicant's arguments filed 09/25/02 have been fully considered but they are not persuasive for the following reasons.

On page 3 paragraph 2 in response to office action, applicant argued that Fried and Crichton et al fail to teach utilizing length system information in anyway. The examiner disagrees. Fried teaches that the system information or control network element as quite length as clearly indicated in the office action, further more, Crichton et al disclose the mobile station measures time corresponds to how long the receive signal parameters of the neighboring cell.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As evidenced the disclosure of claimed suggest matter by the applied prior art, then the rejection Fried in view of Crichton et al. is proper and maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bodin et al disclose select neighboring cell with lower occupancy or overload cell (fig.4).

7. ***Any response to this action should be mailed to:***

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Or:

*(703) 746-6042 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")*

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun Gesesse whose telephone number is (703) 308-5873.. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (703) 305-4385. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4750.

TBG

Nov. 29, 2002

Tilahun Gesesse



EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600